

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

DARRELL J. HARPER,	§	
VS.	§	CIVIL ACTION NO. 6:16cv371
DEBORAH R. GILBERT	§	

ORDER OF DISMISSAL

Plaintiff Darrell J. Harper, an inmate confined in the Texas state prison system, proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit against Deborah R. Gilbert, an employee of the State of Texas in the Texas prison system. The complaint was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the lawsuit should be dismissed pursuant to sanctions imposed by the United States Court of Appeals for the Fifth Circuit. Mr. Harper has filed objections.

Mr. Harper alleges that the sanctions imposed by the Fifth Circuit are meritless. In support of his claim, he states intolerance and preferential treatment have denied him due process, and that sanctions should not have been imposed. He also states the Civil Rights Act of 1965 precludes the application of sanctions in his case. His complaints about the sanctions imposed by the Fifth Circuit must be presented to the Fifth Circuit, not to this court. This court is obliged to comply with the orders issued by the Fifth Circuit. Magistrate Judge Mitchell appropriately concluded that the lawsuit should be dismissed in accordance with the sanctions. The court may not consider Mr. Harper's claims, or attacks upon the sanctions imposed by the Fifth Circuit.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Mr. Harper to the Report, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and Mr. Harper's objections are without merit.

It is therefore

ORDERED that the cause of action is **DISMISSED** without prejudice as barred by the sanctions imposed by the Fifth Circuit. All motions not previously ruled on are **DENIED**.

So **ORDERED** and **SIGNED** this **19** day of **November, 2016**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge